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CIS Congressional Information Service
Washington, D.C.

Calendar No. 404

101ST CONGRESS
1st Session

SENATE

REPORT
101-213

EXPRESSING THE SENSE OF THE SENATE REGARDING DEMOCRATIC REFORMS AND HUMAN RIGHTS ON TAIWAN

NOVEMBER 19 (legislative day, NOVEMBER 6), 1989.—Ordered to be printed

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Mr. PELL, from the Committee on Foreign Relations, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. Res. 210]

The Committee on Foreign Relations, to which was referred the resolution (S. Res. 210) expressing the support of the Senate regarding democratic reforms and human rights on Taiwan, having considered the same, reports favorably thereon without amendment and recommends that the resolution do pass.

PURPOSE

The purpose of this Senate Resolution is to express the Senate's support for democratic reforms and human rights in Taiwan.

BACKGROUND

The largest election in the history of Taiwan in which opposition parties, including the Democratic Progressive Party, will participate will be held on December 2, 1989. These elections represent a milestone in Taiwan's transition to democracy under the leadership of President Lee Teng-hui, a native Taiwanese, who is vigorously continuing the late President Chiang Ching-kuo's policy of opening the political process.

Nevertheless, there have been several issues raised concerning the progress of reform. First, the government and KMT controlled

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broadcast media have favored the ruling party. Second, recent incidents suggest that the legal system is being used to weaken and intimidate opposition leaders. Last June two opposition figures, Mr. Hsieh Ch'ang-t'ing and Mr. Chiang K'ai-shih, were sentenced to prison terms of eighteen months and one year respectively for involvement in a 1987 demonstration. Respected international human rights organizations have concluded that they were arrested for the peaceful exercise of their right to freedom of expression and tried to prevent violence from occurring. And on October 14th, Mr. Hsu Hsing-liang, a former magistrate, was charged with conspiracy to commit sedition based on action occurring in 1979, including actions he took while in the United States. Mr. Hsu had been granted asylum in the United States in 1980. Since his return to Taiwan on September 27th, he has been detained and will be tried on November 18th.

The Committee is concernced that some of the charges brought against Mr. Hsu are based on his political activities and statements while he was in United States. This resolution is not intended to pass judgment on the merits of all charges brought against Mr. Hsu.

The Committee wishes to express our support for democratic trends underway in Taiwan and wishes to express our concern and interest for continued progress in human rights.

MAJOR PROVISIONS

The resolution welcomes democratic trends emerging in Taiwan and recognizes the progress recently made in advancing democratic institutions and values. The leaders and people of Taiwan are encouraged to continue this process. It acknowledges the Senate's continued support for a free and prosperous Taiwan as stated in the Taiwan Relations Act.

The Taiwanese authorities are urged to continue to address human rights concerns such as denial of access to Taiwan for some persons, including citizens of Taiwan, based on their political activities or statements while in the United States.

The Administration is asked to convey to the appropriate Taiwanese authorities U.S. concern over legal actions taken against Taiwanese citizens because of their political activities and statements while residing in the United States.

Taiwanese leaders are urged to send a strong signal of Taiwan's continued commitment to the principles of democracy and the rule of law in the December 2, 1989, elections.

COMMITTEE ACTION

S. Res. 210 was introduced by Senator Pell for himself and Senator Murkowski on November 16, 1989, and referred to the Committee on Foreign Relations.

The committee considered S. Res. 210 on Friday, November 17, 1989. S. Res. 210 was ordered reported by a vote of 15–0 with the inclusion of minority views. Voting in the affirmative were Senators Pell, Biden, Sarbanes, Dodd, Kerry, Sanford, Moynihan, Robb, Helms, Lugar, Kassebaum, Boschwitz, Pressler, Murkowski, and McConnell.

ADDITIONAL VIEWS OF MR. HELMS

S. Res. 210 is more than a mischievous interference in the internal politics of a long-time friend and democratic ally of the United States. Both its content and its timing are clearly detrimental to established American foreign policy goals in the region.

The Resolution has a high-sounding title: "Expressing Support for Democratic Reforms and Human Rights on Taiwan." However, it should have been titled, "Expressing Support for Ramsey Clark," for this, indeed, should be called the Ramsey Clark Resolution.

The first resolved clause calls on the "authorities on Taiwan" to "address human rights concerns such as denials of access to Taiwan for some persons." The "some persons" are not identified but in Taiwan has a free press and everyone there knows the reference is to Ramsey Clark. During the week of November 13, 1989, it was widely reported by the Taiwanese press that Mr. Clark had been denied a visa to enter the country.

Why would a country as friendly to the United States as the Republic of China deny a visa to a former United States Attorney General? Let's look at the record:

In early June of 1980 the American hostages in Iran were about halfway through what was to be 444 days of captivity at the hands of the Ayatollah Khomeini. In order to deflect world attention from his crimes, the Ayatollah decided to hold a "conference on Iranian grievances against the United States." [1] All of the professional American-hating groups were invited but such tribunals are not complete these days without a few Americans whose role it is to applaud the slanders of their country and to praise the local dictators.

However, with Americans being held hostage, who could be recruited for such a task?

Mr. Ramsey Clark and nine others went to Iran, all expenses—transportation, lodging and even food paid by the Iranian Government.[2] President Carter's Attorney General, Benjamin Civiletti, tried to block his predecessor's travels but he was too late.[3]

The others in Mr. Clark's party were seasoned travelers. One of them, Professor John Gerassi, was an organizer of the "Vietnam War Crimes Tribunal." [4]

When Mr. Clark arrived in Iran he was most impressed. He called the Ayatollah's dictatorship, "a miracle of the age." [5] As for the American hostages, he said, "the seizure of the hostages is understandable in human terms. God knows, it is understandable." [6]

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[1] The New York Times, June 2, 1980.
[2] The New York Times, June 3, 1980, p. A1.
[3] Ibid.
[4] The New York Times, June 4, 1980, p. 1.
[5] The New York Times, June 4, 1980.
[6] Ibid.

He charged that President Carter's abortive commando raid to rescue the hostages was an 'illegal violation of Iran's territory." [7]

That was enough work for one day. The next day Mr. Clark met with the Iranian President and offered to set up a commission in the United States to investigate American involvement in Iran.[8] The following day he and his party were the guests of honor at a large, Iranian-government organized, anti-American demonstration in the city of Ishahar.[9]

After the conference, Mr. Clark's party stayed on to see some of the hostages. Mr. Clark has experience in this area. Shortly after the famous visit of Jane Fonda to Hanoi, Mr. Clark made his own visit there. He spoke to a few POW's and brought back the word that their health was "better than mine and I am a healthy man."[10] As one person later observed, "His remarks would have been interesting to men who had spent years in vermin-infested dungeons and who had been starved, tortured, and shackled to their bunks for long periods and forced to live in their own wastes." [11]

Mr. Clark's antics in Iran caused an immediate response in the United States. On June 6, 1980 the distinguished Senator from Kansas, now the Republican Leader of the Senate, Robert Dole, and Senators Baker, Goldwater, Thurmond, Helms, Laxalt, Lugar, Hatch, Garn, Hayakawa, Humphrey, Jepsen, Tower, Stevens, Domenici, Pressler, Simpson, Warner, Young, Byrd and Ford, introduced Senate Resolution 453 which urged prosecution of Mr. Clark and his party under the Logan Act. The resolution accused Mr. Clark and his party of having "collaborated in (Iran's) hostility by condemning and insulting their own country". Senator Dole spoke for all the cosponsors when he declared, "We should not tolerate the egregious self-righteousness and apostate quislingism of those Americans who have gone to Iran". The following day, Attorney General Civiletti ordered an investigation of Mr. Clark's trip under the terms of the International Emergency Economic Powers Act.

Since Iran, Mr. Clark has turned his attentions elsewhere. In May 1987 it was the Philippines. With one of the veterans of the Iranian trip, Leonard Weinglass, he produced a report attacking local Philippine efforts to defeat the Communist Party of the Philippines [CCP] while ignoring the CCP's own long history of terrorism. The Clark group was immediately denounced by President Aquino's Defense and Local Government Secretaries for "fishing for evidence against their own government." [12]

Small wonder that the Republic of China felt no need of Mr. Clark's presence.

S. Res. 210 surfaced in the Senate Foreign Relations Committee on the very day that the denial of Mr. Clark's visa hit the American newspapers. Passage of the Resolution will be seen on Taiwan as an attempt by the Congress to pressure the Republic of China to grant Ramsey Clark a visa. That, in turn, will send a very strong

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[7] Ibid.
[8] The New York Times, (UPI), June 5, 1980.
[9] The New York Times, June 6, 1980.
[10] Richard Nixon, "Richard Nixon," page 688.
[11] Hubbel, John, "Prisoner of War," page 585.
[12] Manila Far East Broadcasting Company, May 27, 1987.

signal that the United States approves and supports Mr. Clark's activities.

That is not a signal the Congress should be sending. Mr. Clark's record is well known. The victims of the tyrannies he has supported over the years—North Vietnam, the Ayatollah's Iran, the Philippine insurgency—run into the millions. Senator Dole's comparison of Mr. Clark to the Nazi collaborator Quising was right on target.

The Resolution is also seriously misleading. A person reading the exhortion calling for the government of the Republic of China to address "denials of access to Taiwan" would assume the country had become as closed as Albania. According to the statistics of the Republic of China, in the first seven months of this year 62 out of 107,569 visa applications were denied. That is substantially less than one-half of one percent. The U.S. average is far higher.

The implication of the Resolution is that the Republic of China is denying access to some persons, including citizens of the Republic of China, based on their political activities in the United States. First, regarding citizens of the Republic of China, it is fair to say that individuals who have engaged in nothing but political statements will be permitted and are regularly permitted to enter Taiwan. Individuals who have engaged in activities inimical to the health of the nation itself may not enjoy that privilege. Indeed, even in this country—the freest country on Earth—we do not permit activities designed to result in the violent overthrow of the government.

The Majority Report on S. Res. 210, while complaining that Mr. Hsu Hsing-liang has been charged with conspiracy to commit sedition, says: "This resolution is not intended to pass judgement on the merits of all charges brought against Mr. Hsu (Hsing-liang)" What the Report does *not* say is that Mr. Hsu sneaked back into Taiwan aboard a fishing boat from mainland China in September. It is worth noting that due to an accident of geography, the people of Taiwan are very close to the military dictatorship of Communist China. If the government of the Republic of China did *not* guard against unauthorized persons trying to sneak in from Communist China, it would be derelict in its duties to safeguard the people of Taiwan.

Second, as to individuals who are not citizens of the Republic of China, there is no positive obligation on the part of the government of the Republic of China to permit them to enter the country. Each nation, including the United States, reserves to itself the right to determine who will be permitted to enter the country and under what circumstances. The United States regularly excludes persons with criminal records, associates of known terrorist groups or those who espouse anti-democratic causes. It should come as no surprise that the Republic of China does likewise.

S. Res. 210 has other fatal flaws. The reference to the first elections with a bona fide opposition is just flat wrong. Unlike the mainland, which has not had anything close to a free election since its conquest by the communists in 1949, there have been free elections on Taiwan for decades. On December 2, 1989, thirty-nine separate political parties will contend for support from the voters.

There is so much activity, in fact, that primaries are now part of the electoral process.

In order to question its legitimacy, certain Arab spokesmen refer to Israel in public as the "Zionist entity." In the same vein, this Resolution refers to the Government of the Republic of China as "the authorities on Taiwan." We regularly refer to the butchers of Beijing as the "People's Republic of China" although we know that they are neither a republic nor the representatives of the Chinese people. Tienanmen Square on June 4, 1989 settled that issue forever. The "authorities on Taiwan" have a name the "Republic of China," it has been in use for over 75 years, and it is time to acknowledge it.

In essence, S. Res. 210 presents a serious miscarriage of justice. The Republic of China on Taiwan has moved vigorously in the direction of democratic procedures and opening up its political system because it is in the interest of the people of Taiwan to do so. Taiwan is conducting free and fair elections. We do ourselves no favor, and we do the people of Taiwan no favor, to muddy this situation and allow those with special axes to grind, such as Mr. Ramsey Clark, to imply somehow that Taiwan is deficient in terms of its commitment to conduct those elections in a free and fair manner.

JESSE HELMS.

APPENDIX

SENATE RESOLUTION 453—SUBMISSION OF A RESOLUTION CONCERNING THE HOSTAGES IN IRAN AND ENFORCEMENT OF THE LOGAN ACT

Mr. Dole (for himself, Mr. Baker, Mr. Goldwater, Mr. Thurmond, Mr. Helms, Mr. Laxalt, Mr. Lugar, Mr. Hatch, Mr. Garn, Mr. Hayakawa, Mr. Humphrey, Mr. Jepsen, Mr. Tower, Mr. Stevens, Mr. Domenici, Mr. Pressler, Mr. Simpson, Mr. Warner, Mr. Young, Mr. Harry F. Byrd, Jr., and Mr. Ford) submitted the following resolution, which was referred to the Committee on the Judiciary:

"S. RES. 453

"Whereas, the government of Iran has continued to act in a hostile manner towards the government of the U.S. since it seized American diplomatic personnel on November 4, 1979;

"Whereas, certain residents and citizens of the U.S. have collaborated in this hostility by condemning and insulting their own country;

"Whereas, the government of Iran has conducted a 'sham' tribunal falsely pretending to be an assessment of 'crimes of America' at which certain citizens and residents of the U.S. attended at the request and expense of Iran;

"Whereas, the only means of preventing the dangerous and damaging actions of those American participants in such anti-American propaganda, short of a declaration of war against Iran, is active enforcement of the Logan Act;

"Whereas, Title 18, Section 953, of the United States Code prohibits that any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measurement or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States;

"Whereas, the President of the United States by executive order prohibited all travel by American citizens to Iran as part of our overall policy of securing the release of American hostages: Now, therefore, be it

"*Resolved,* That it is the sense of the Senate that the President instruct the Attorney General to prosecute to the fullest extent of the law any and all persons who are in violation of the Logan Act; thereby denigrating the United States and giving the color of 'right' to the illegal actions taken by the government of Iran."

Mr. DOLE. Mr. President, the Senator from Kansas wishes to introduce a simple resolution to take care of a recent blot upon our national honor. This resolution would simply express the sense of the Senate that the President instruct the Attorney General to carry out his responsibilities with regard to the Logan Act, that is to prosecute to the fullest extent of the law any persons participating with foreign governments in the denigration of the United States. In particular, this resolution is aimed at those Americans attending the anti-American conference in Tehran in support of the Government of Iran.

The Logan Act is quite clear in its message, quite direct in its meaning, and simple in its language, title 18, section 953 of the United States Code prohibits that any citizen of the United States, directly or indirectly commence or carry on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States.

SOME NEVER LEARN

Mr. President, during the Vietnam war, now a decade in the past, Ramsey Clark, Jane Fonda and some others went to North Vietnam in a misguided attempt to bring peace by giving our enemies legitimacy and by casting blame on the United States, in an environment hostile to America, our prisoners of war in Hanoi had some reason to regret the presense of Mr. Clark and Ms. Fonda, as many of them have since eloquently testified.

Today we see a similar situation developing that is more repugnant to us because of those who have failed to learn from the past. Now our country is completely united in its rancor toward the Ayatollah Khomeini and Iran. We should not tolerate the egregious self-righteousness and apostate quislingism of those Americans who have gone to Iran. They may have acted with good, though misguided intentions—but they were warned by the President's Executive order that such unwarranted interference was prohibited and not subject to private, individual interpretation. Yet, these self-proclaimed experts went anyway to attend this conference to condemn America.

FIFTY-THREE HOSTAGES

Fifty-three Americans—diplomats all with international immunity—are held hostage in a despicable and defiant act of war against the people of the United States. Iran has been universally, if ineffectively condemned for this outrageous action. Yet Mr. Clark, and his associates, see fit, as he did in North Vietnam, to lend legitimacy and credibility to our enemies, by participating in this mockery of a trial, this travesty of justice. When we get the hostages back—and someday we will get them back—we may find, as we did upon the return of the Vietnam POW's, that Mr. Clark's dramatic appearance on the scene was far from appreciated. In the meantime, appropriate courses of action toward Mr. Clark and his friends exist in law, via the Logan Act, and in the Executive order promul-

gated by President Carter. It would be totally irresponsible for the President to allow the ban on travel to Iran to be violated in this flagrant breech of loyalty. It just seems to the Senator from Kansas that when the administration is actively discouraging families of the hostages from going to Iran to plead for the lives of their husbands and fathers, and sons and daughters, that we cannot allow these unofficial apologists for American policy to dictate a United States position before the scandalized eyes of the world.

It is the understanding of the Senator from Kansas that the administration does plan to detain Mr. Clark and the others when they arrive back in this country, for possible violation of the Logan Act. With the passage of this resolution, the Senate will go on record in support of this just and vigorous prosecution of the law of the land. It is my belief the American people will welcome this display of firmness and high regard for our national honor.

[From the Baltimore Evening Sun, Nov. 15, 1989]

TAIWAN BANS CLARK

Taiwan has refused to allow former U.S. Attorney General Ramsey Clark to enter the country to visit a Taiwanese dissident jailed for advocating Taiwanese independence, another dissident says. The Nationalists, who control Taiwan, claim they are the sole legitimate government of all China.

Hsieh Tsung-min said Clark, now a human rights lawyer in New York, had planned to arrive in Taipei from Tokyo Monday. He returned to New York when he was informed of Taiwan's refusal. Hsieh said Taiwan authorities earlier gave Clark permission to meet Hsu Hsin-liang, 48, former publisher of a dissident magazine, who sneaked back to Taiwan in a fishing boat from mainland China in September.

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